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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,193	07/28/2000	Glennis J. Orloff	A0000001-04-CWA	3154
7590 07/15/2004			EXAMINER	
Charles W Almer Warner-Lambert Company 201 Tabor Road Morris Plains, NJ 07950			ASHLEY, BOYER DOLINGER	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/626,193

Applicant(s)

ORLOFF ET AL.

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 and 67-115 is/are pending in the application.
- 4a) Of the above claim(s) 1-63, 70-84 and 88-115 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 64, 67-69 and 85-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/20/04 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 64, 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Sturtevant et al., U.S. Patent 5,100,506.

Sturtevant et al. discloses the same invention as claimed including: a substantially planar and rigid substrate (53); and at least 100 micro-blades (51/57; Figure 5 show well over 100 individual cutters) capable of cutting hair.

As to claim 67, Sturtevant et al. discloses at least about 200 micro-blades (see Figure 5 which shows over 200 individual cutters and approximately 300).

As to claim 86, Sturtevant et al. discloses, as shown in Figure 5, blades arranged in ordered columns and rows.

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As to claim 87, Sturtevant et al. discloses, as shown in Figure 5, blades arranged in staggered columns and rows as displayed as offset teeth.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 68-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sturtevant.

Sturtevant discloses the invention substantially as claimed except for the specific number of micro-blades being 500, or 1000. However, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use any number of blades depending upon the size of the hair removal device desired and needed as well as the size of the area for hair removal in order to speed up the hair removal process, because it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. Moreover, it would have been an obvious matter of design choice to use any number of blades for the purpose of facilitating hair removal based upon the size of the work area, because applicant has not disclosed that the specific number of blades solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any number of blades whether 500 or 1000 depend upon the size of the workpiece.

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6. Claim 85 is rejected under 35 U.S.C. 102(b) as anticipated by Sturtevant et al. or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sturtevant et al.

Sturtevant et al. discloses the same invention as claimed including each blade mounted on separate blade supports (59). In the alternative, even if it is argued that Sturtevant et al. lacks the separate blade mounts because the blades of Sturtevant et al. are integral with the substrate, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use separate blade supports for each blade in order to save time and money replacing individual blades, because it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

Response to Arguments

7. Applicant's arguments with respect to claims 64, 67-69, and 85-87 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
July 8, 2004